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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,152	06/27/2003	Wesley G. Miller	MSFT 5064 (MS #302667.1)	7887
321	7590	01/11/2007	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			FIELDS, COURTNEY D	
			ART UNIT	PAPER NUMBER
			2137	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/11/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/11/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary

Application No.

10/609,152

Applicant(s)

MILLER, WESLEY G.

Examiner

Courtney D. Fields

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>27 June 2003, 04 October 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-48 are pending.

Information Disclosure Statement

2. The Information Disclosure Statements respectfully submitted on 27 June 2003 and 04 October 2004 have been considered by the Examiner.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 45-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 45-48 discloses a "computer readable medium" comprising tangible and intangible results. (See Specification, pages 15-16, Section 0052)

When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer-readable medium, in a computer, on an electromagnetic carrier signal does not make it statutory.

A claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of

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matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims."

A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

A claimed signal is not matter, but a form of energy, and therefore is not a composition of matter.

A signal, a form of energy, does not fall within either of the two definitions of manufacture.

Therefore, a computer readable medium comprising a computer data signal embodied in a carrier wave does not fall within one of the four statutory categories of invention of § 101.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Barr et al. (US Patent No. 6,189,100).

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Referring to the rejection of claims 1,6, 13, 18, 26, 34, 38, and 41, Barr et al. discloses a method of transferring via a network boot files from a server to a client having a pre-OS environment, comprising:

installing a client certificate of authenticity in the client (See Column 7, lines 9-20)

requesting by the client via the network that the server transfer the boot files to the client (See Column 7, lines 21-33)

sending by the client via the network the installed client certificate of authenticity (See Column 7, lines 21-33)

authenticating by the server of the client by the received client certificate of authenticity (See Column 7, lines 21-33)

sending by the server via the network a server certificate of authenticity to the client in response to authenticating by the server of the client (See Column 7, lines 21-33)

authenticating by the client of the server by the received server certificate of authenticity (See Column 7, lines 21-33)

requesting by the authenticated client via the network that the authenticated server transfer the boot files to the authenticated client (See Column 7, lines 21-33)

transferring the boot files from the authenticated server to the authenticated client in response to the requesting by the authenticated client (See Column 7, lines 34-39)

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authenticating by the authenticated client of the transferred boot files (See Column 7, lines 39-44)

and executing by the authenticated client of the authenticated boot files (See Column 7, lines 45-50)

Referring to the rejection of claims 2,9,17,22,24, and 31, Barr et al. discloses the claimed limitation wherein clients that have an invalid or revoked certificate are not authenticated or answered by the server (See Column 1, lines 61-67)

Referring to the rejection of claims 3,10,27, and 35, Barr et al. discloses the claimed limitation wherein servers that have an invalid or revoked certificate are not acknowledged by the client (See Column 1, lines 61-67)

Referring to the rejection of claims 4,11,15,20,29,33,37, and 40, Barr et al. discloses the claimed limitation wherein boot files received by the client that are incorrectly signed are not executed by the client (See Column 8, lines 32-35)

Referring to the rejection of claims 5,12,16,21,25,28,36, and 44, Barr et al. discloses the claimed limitation wherein the transferred boot files include a signature and wherein the client verifies the signature (See Column 9, lines 1-10, 24-33)

Referring to the rejection of claims 7 and 42, Barr et al. discloses the claimed limitation wherein authenticating by the authenticated client of the transferred boot files (See Column 9, lines 1-10)

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Referring to the rejection of claims 8 and 43, Barr et al. discloses the claimed limitation wherein executing by the authenticated client of the authenticated boot files (See Column 7, lines 51-58)

Referring to the rejection of claim 19, Barr et al. discloses the claimed limitation wherein authenticating by the authenticated client of the transferred boot files and executing by the authenticated client of the authenticated boot files (See Column 7, lines 35-45)

Referring to the rejection of claims 23 and 30, Barr et al. discloses a method of transferring via a network boot files from a server to a client having a pre-OS environment, comprising:

receiving by the server a request from the client via the network that the server transfer the boot files to the client (See Column

receiving by the server via the network a previously installed client certificate of authenticity from the client (See Column 7, lines 21-33)

authenticating by the server of the client by the received client certificate of authenticity (See Column 7, lines 21-33)

and transferring the boot files from the server to the authenticated client (See Column 7, lines 34-39)

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Carbajal et al. (US Patent No. 6,560,706) discloses a method and apparatus for ensuring system boot image integrity and authenticity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 571-272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



cdf

January 7, 2007


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER